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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

FIKES *et al.*

Appl. No. 09/583,200

Filed: May 30, 2000

For: **HLA Class I A2 Tumor
Associated Antigen Peptides and
Vaccine Compositions**

Confirmation No. 1443

Art Unit: 1644

Examiner: Schwadron, R.B.

Atty. Docket: 2060.0150002/EKS/HCC

Reply

Commissioner for Patents
Washington, D.C. 20231

Sir:

In reply to the Office Communication dated May 20, 2003, Applicants submit the following remarks.

The Office Communication states that the Reply filed November 12, 2002 was not fully responsive to the prior Restriction Requirement because there allegedly is no claim pending similar to original claim 3. Applicants respectfully disagree.

Original claim 3 was directed to a composition comprising a recited peptide, wherein the peptide is fused to or admixed with a CTL epitope. Contrary to the statement in the Office Action, claims 68 and 69, which are directed to compositions comprising the elected peptide -- a CTL epitope -- and one or more other peptides, are similar to original claim 3. Thus, they are directed to the provisionally elected species. Accordingly, the reply filed November 12, 2002 was fully responsive to the Restriction Requirement.

Moreover, claim 63 is also directed to the provisionally elected species. Claim 63 recites a heteropolymer comprising the peptide of claim 1 and other peptides. This claim is also similar to original claim 3 in that the heteropolymer comprises the peptide of claim 1 -- a CTL epitope -- fused to other peptides.

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Further, contrary to the statement in the Office Communication, the provisionally elected species is not mutually exclusive of the other species listed in the Restriction Requirement. For example, a peptide of claim 1 may simultaneously be fused to a CTL, for example to form a heteropolymer, and fused to an HTL, and fused to a lipid, and may be part of a composition comprising a lipid. Since the species are not mutually exclusive, claims 37, 41, 52-54, 57-73, 154, and 158-160 read on the provisionally elected species.

Applicants respectfully request that the above remarks be considered and the holding of non-responsiveness be withdrawn. At a minimum, Applicants submit that the Examiner can search the provisionally species without an undue burden.

It is believed that the application is in condition for examination. Early notice to this effect is respectfully requested.

It is believed that extensions of time are not required, beyond those that may otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Helene C. Carlson
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Date: 6/6/03

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Fax Urgent Return reply requested Original will be sent as confirmationTo: **U.S. Patent and Trademark Office**

Date: June 6, 2003

Attention: **Examiner: Ronald B. Schwadron**
Art Unit: 1644Re: Appl. No. 09/583,200
Filed: May 30, 2000From: **Helene C. Carlson**For: **HLA Class I A2 Tumor Associated
Antigen Peptides and Vaccine
Compositions**

Pages (including cover sheet): 3

Fax No: (703) 305-3014

Our Reference: 2060.0150002/EKS/HCC

Message

Transmitted herewith for appropriate action is the following document:

1. Reply.

The U.S. Patent and Trademark Office is hereby authorized to charge fees to our Deposit Account No. 19-0036.

I hereby certify that the following Reply is being facsimile transmitted to the Patent and Trademark Office on the date shown below. Please contact me at (202) 772-8553 if there is an error in the transmission of these documents.

A handwritten signature in black ink that reads "Elizabeth Fowble".

Elizabeth Fowble

A handwritten date in black ink that reads "6-6-03".

Date

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contact us at 202.371.2600 or f 202.371.2540.

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